

8 April 1975

MEMORANDUM FOR: Deputy Director of Security for Policy and Management
SUBJECT : Position Paper on [REDACTED] Proposal re:
Third Agency Rule

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1. The proposal by [REDACTED] in paragraph 7 of attachment A, concerning "truly sensitive matters" fulfills exactly the intent of the Third Agency Rule".

2. When Executive Order 11652 became operative, a directive was issued on 17 May 1972 entitled "National Security Council Directive Governing the Classification, Downgrading, Declassification and Safeguarding of National Security Information". This directive, in section VI, paragraph D entitled Consent of Originating Department to Dissemination by Recipient, states:

"Except as otherwise provided by Section 102 of the National Security Act of 1947, 61 Stat. 495, 50 USC 403, classified information or material originating in one Department shall not be disseminated outside any other Department to which it has been made available without the consent of the originating Department." I

25X1A 3. The portion of the proposal which seeks the originating Agency or Department approval prior to release complies with the National Security Council Directive admirably. Concern comes with that portion of [REDACTED] proposal which states, "Where the reference concerns a Third Agency indirectly or is not considered sensitive and does not pose policy concerns, the agency concerned may forward the material to the requesting Select Committee without an item-by-item, mention-by-mention clearance with Third Agencies." He then goes on to suggest that originating

1. Emphasis provided by writer

Departments be advised of the release of their information subsequent to the act.

4. The difficulty with the second portion of the proposal is that generally speaking no agency which is the recipient of another agency's information is in a position to judge the source, sensitivity or relationship to policy concerning the information in question. It would seem that some rather serious mistakes in judgment could be made in releasing information and advising the originator in an after-the-fact situation.

5. It is recommended that to assist the Select Committees, all Agencies and Departments attempt to determine whether they can release Third Agency information rather than refer the committee to the originating Agency. By referral we may appear to these Committees to be obstructionists whereas by determining ourselves whether information can be released we will speed the process that provides the committees with the information. It is further recommended that judgment of material not be made by anyone but the originator for reasons set forth in paragraph 4.

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